



## A Dialogue with Mike Rolband, Director of Virginia DEQ

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Mike Rolband was appointed Director of the Virginia Department of Environmental Quality in January 2022. Recently, Channing Martin, a partner in the Environment and Natural Resources Group at Williams Mullen, had the opportunity to interview him about issues important to the regulated community.

**Q. *Mike, you founded Wetland Studies and Solutions in 1991 and grew that company into a natural and cultural resources consulting firm with more than 200 employees. Has that experience helped you in your new role as DEQ Director?***

A. I think it's helped me greatly. I spent most of my career at my own company and before that working for two large developers. That's helped me come to this position with a totally different perspective. DEQ's been the most effective and efficient agency I've worked with, but my record while in the private sector for one project is 14 different approvals, so I've dealt with all sorts of agencies that interact on the same permit or same approval process. I've seen how everyone works, and I think what I bring now to DEQ is the perspective of the applicant.

**Q. *That leads me to a question about permitting. Is DEQ taking any steps to streamline and simplify permitting?***

A. The biggest step we've initiated is a program called PEEP – the Permit Evaluation & Enhancement Program. What we're going to do – and I have two people assigned to it, and we'll be using some outside resources as well – is create a schedule for every permit class that DEQ touches. We'll create the schedule, assign tasks and times, including those applicable to other agencies that must be consulted as part of the permit process. As you know, there are a number of agencies that consult with DEQ and provide comments on many of our permits. These include the Army Corps of Engineers, EPA, and the U.S. Fish & Wildlife Service as well as Virginia agencies, such as DCR, the Marine Resources Commission, and the Departments of Historic Resources, Wildlife Resources, and Forestry. All those tasks will be listed on the online portal so that the permittee, the public and the DEQ manager can view and track them. Another aspect is that when the deadline for a certain aspect of the permit is pending, a notification will automatically be sent to the permit writer. If there are further delays, eventually a notification will be sent to higher levels of management so they can see either whether there is a resource problem, meaning they need to assign more people to it, or whether the delay is simply

because someone is sick or has been on vacation. In the past, the permit just sat there and didn't advance. We're going to change that and bring daylight to the process so everyone involved can see where things stand. I think inherently that will speed things up.

**Q. *Let's talk more about the consulting process with multiple agencies. Is there anything that can be done to streamline it, and will that effort be part of PEEP?***

A. There is much we can do to better coordinate with agencies and speed up the process. We're going to be focusing on the water programs first because that's where most of the complaints are. If you combine wetlands and stormwater, that's almost half of our permit actions and probably 85% of the complaints. That's the number one area to focus on, and it's the one that has the most agencies that are outside of DEQ's control. As an example of how we are trying to improve coordination, I've had two meetings with the Colonel and his top five people at the Norfolk District of the Army Corps of Engineers. I'm going to meet with him every quarter, and I've explained PEEP to him and what we are trying to achieve. He loved the idea.

I understand there are public comment periods and other aspects of the laws and regulations that affect how long it takes to get a permit, and that there is nothing we can do to make that aspect of the process go faster. But my experience has been that permits tend to get stuck somewhere in the process not because of legal requirements, but for other reasons. I think better coordination with agencies and transparency will improve efficiency.

**Q. *To what extent are staffing issues affecting DEQ?***

A. It's a significant issue. In the stormwater program, lack of staff is their number one problem. We have put out an advertisement seeking 12 people to fill positions in that program. We have 21 authorized positions in that program, but only nine people right now. We need to find new people and train them. We can't stop. There's always going to be turnover, promotions, and people retiring. I think roughly 75 people, or 10% of the DEQ workforce, retired last year. We're already short people, and now you have retirements, so we are working hard to fill the vacancies we have.

**Q. *Complying with DEQ's stormwater programs always presents challenges for the regulated community. What is DEQ doing to help make requirements more easily understood?***

A. I agree there is confusion about certain aspects of the programs. For example, there have been a lot of issues around the state concerning the farming and agricultural industry and what stormwater requirements and permits apply to them. There's been confusion for years about stormwater outfalls and lately issues about how the stormwater regulations apply to solar installations. We are in the process of developing guidance documents on outfalls and stormwater management for solar installation and will be developing other stormwater guidance as well.

We've looked at all of the DEQ manuals, guidance and regulations that apply to stormwater. I recently hired Evan Branosky as the Chief Stormwater Policy Advisor at DEQ. The first assignment I asked him to do was find all these regulations, bulletins, guidance documents and manuals and make a copy. He put them on top of each other, and we measured it - it was 23' tall. Some of these documents are not available online, so we're in the process of putting them on our website. We plan to take a hard look at

what we have. To do that, we will create a stakeholders' group to help us create a new manual. One reason for complications and confusion in the regulated community is many of the documents we have conflict with each other. The majority of them were published prior to the 2014 regulations. We're still using guidance and a manual from 1988, the green handbook from 1992, the stormwater book from 1999. They all predated the regulations, and they all conflict with each other in places. We need to get one manual that covers everything that we can then update. The idea is to make it a living document that is constantly updated so it doesn't fall out of compliance with the regulations. It's a heavy lift, and one that may not have been attempted before because of the amount of work that will be required to do it. If we can produce a concise document that is easy to follow, I think the review process will go faster and everyone will be happier.

***Q. Regarding the availability of on-line information, I've heard complaints about the new DEQ website to the effect that information that used to be there has disappeared or is hard to find. Have you heard complaints as well?***

A. I've heard them and have experienced difficulty myself in finding information. It's a problem we are trying to solve. The website is an award-winning website. Some people love it, but what I found is that those who do just have a general interest in what DEQ does. The people that don't like it are ? I call them power users ? attorneys, engineers and environmental consultants that used to know where to go on the website to find information. Some of that information is no longer there. It's going to take some time to fix things, and we're starting to do so program-by-program. Part of the problem is that the communications people don't know what to communicate unless the various divisions give them the information. We've got to get the technical people to provide the information that should be on the website to the communications people. I'd like the process to go faster, but realistically we only have so many people and resources.

***Q. Any time a new director comes in to DEQ, they have strategic goals they want to achieve, and you probably have many. Are there one or two that rise to the top?***

A. Number one is to make the permit process faster and more efficient. I'm not trying to change the rules, I'm just trying to make it a more efficient process. The main initiatives I've focused on are how we can do a better job and be more efficient in getting these permits through the process. The last spreadsheet I received was that between active and existing permits, DEQ is administering about 28,000 permits now. That's a mind-boggling number, and we have roughly 3,000 or more going through the process at the moment. PEEP is a way to make the process more efficient, and I think we also need to figure out a way to classify permittees into groups and make similar groups process in a similar manner.

A second goal is what I call "One DEQ," which is the concept of focusing our resources on where they are most needed. One thing I've noticed is there are often resources in different parts of DEQ that may make sense to re-deploy elsewhere when and as needed. For example, there might be a surge of economic development projects in an area of the state that has limited DEQ resources in the DEQ regional office that can handle the permitting required. In that instance, we need to effectively get other people within the agency to assist with that workload. We have six regional office offices plus the central office. We've got to figure out ways to get everyone to work together. That's another big strategic goal.

**Q. *The General Assembly just made a change in the permitting authority. Previously, the State Water Control Board and Air Board had permitting authority, but they're not going to have it going forward. Is that a good thing or a bad thing from your perspective?***

A. From my perspective it's a good thing because none of the other states in the mid-Atlantic region do it that way. All permitting in other states is done by the state environmental agencies. We're eliminating a step that has a lot of uncertainty and risk not faced by those who apply for permits in states we're competing against for economic development. In addition, I don't believe that eliminating board review will result in less protection of the environment. During the debate on the bill, I learned that only once or twice in the last two or three decades have the boards overturned what the Department recommended. That fact convinced me that having the boards issue permits is an unnecessary step because the Department takes all necessary steps to ensure the environment is protected.

**Q. *Tell me about the steps DEQ is taking to implement its Environmental Justice program and incorporate the Virginia Environmental Justice Act into permitting and regulatory actions.***

A. We have to make more progress on Environmental Justice than we have to date. Renee Hoyos is the new Director of the Office of Environmental Justice, and she and her staff are in the early stages of drafting a guidance document to help us develop and implement the Virginia Environmental Justice Act across all DEQ programs. An important aspect of that guidance will be to focus on Environmental Justice and permitting. Right now there is no consistent application of the Virginia Environmental Justice Act to permit applications. I've asked that the guidance determine what types and classes of permits need a detailed review for Environmental Justice issues, and which ones don't. I've also asked that the guidance address what types of projects and activities require Environmental Justice review and that the guidance list them. It's more difficult than you might think to put in writing exactly what must be done and how. We also need to engage the community on Environmental Justice issues as we develop the guidance, which is what we are going to do. This document is in the early stages of development and much more work remains to be done. When the draft is ready, we'll initially vet it with stakeholders and interested parties and then put it out for public comment and review. When the guidance is complete after public comment, we will integrate it into our PEEP process so that there will be a task in our critical task schedule for Environmental Justice issues.

**Q. A lot of consultants and environmental attorneys around the state are involved with VRP sites and Brownfields redevelopment. A previous attribute of DEQ's Brownfields Program was that you could submit a Phase I to the Brownfields Program and obtain a DEQ comfort letter. The letter would state that, based on a review of the Phase I, DEQ believes the owner or developer qualifies as a bona fide prospective purchaser protected from CERCLA liability and liability under state law. The letter wasn't binding on DEQ, but it was helpful in facilitating transactions and loans. That program went away about six months ago because of funding and personnel issues. Will it ever come back?**

A. That DEQ stopped issuing these letters is something I heard about even before I became DEQ Director. This is an important tool to facilitate economic development of Brownfield sites, so the answer to your question is yes. We will be hiring more people for the Brownfields Program later this year and issuing these letters will be one of the duties assigned to one of the people we hire.

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